

Memorandum

STATE OF WISCONSIN
MANAGEMENT SERVICES



DATE: November 15, 2018

TO: Hon. Randy R. Koschnick,
Director of State Courts

Cc: Tarra Davies-Fox, Human Resources Director, St. Croix County
Chief Judge Maureen Boyle, 10th Judicial District
Don Harper, District Court Administrator, 10th Judicial District

FROM: Caitlin M. Frederick
Human Resources Officer

SUBJECT: Complaint Investigation and Resolution - Judge Eric Lundell

Background

On Monday, November 5, 2018 I received an email from Don Harper, District Court Administrator for the 10th Judicial District indicating that he needed to speak to me about an urgent matter. I indicated I was not available for a long discussion at the current time due to a pending meeting and we arranged for a phone call for approximately 12:30 PM. I also received an email from Diane Fremgen, Deputy Director for Court Operations. I spoke with Diane at approximately 12:15 on November 5 to receive information regarding an incident that occurred between Judge Eric Lundell, St. Croix County Branch 1, and a county [REDACTED]. After my brief conversation with Diane I spoke with Don Harper to get details on the incident as reported to him.

Incident

At 12:30 pm on November 5, Don relayed to me the following incident which happened on Friday, November 2, as reported to him by the [REDACTED] for Branch 1, [REDACTED]

[REDACTED] the [REDACTED] for Judge Eric Lundell, indicated that on Friday, November 2, Judge Lundell invited her to his house. Later that morning, in the courtroom, Judge Lundell approached [REDACTED] again and asked "did you think about my offer?" In the course of the conversation, he indicated that Judge Lundell made statements to [REDACTED] indicating that she "trips his trigger more than [REDACTED] [another county employee whom he also asked over]" and that he could make her a "rich widow" someday.

As a result of this information, I requested that Don speak with the St. Croix County Human Resources Director, Tarra Davies-Fox and that a joint investigation be conducted

regarding this incident. A detailed timeline of events leading up to and including the incident review is included in an attachment.

Interviews

On Monday, November 5, at 2:00 pm I had a conference call with Don Harper and Tarra Davies-Fox to discuss next steps. Under the terms of the Employee Manual Section 22, when allegations of inappropriate behavior between employees of two government jurisdictions occur, the Wisconsin State Courts Human Resources Officer shall conduct a joint investigation with the appropriate officials of the affected political subdivision or other state agency. Tarra was informed of this information. She was also informed, that due to the respondent being a judge, that a complaint could be filed with the Judicial Commission for a formal investigation.

In our conversation, Tarra had indicated that she had spoken with [REDACTED] and that [REDACTED] wished to file a complaint. I advised Tarra that she should also have conversations with any individuals with direct knowledge of the incident to inform them to not discuss it with anyone, and that a review of the incident would be conducted shortly.

On Tuesday, November 6, Tarra and I originally agreed that we would conduct interviews with the complainant and witnesses beginning Thursday, November 15, as Judge Lundell was scheduled to be away on vacation the week of November 12. However, on November 8 it was understood by Tarra that Judge Lundell was not going on vacation as planned, and that we should move up the interview schedule. As a result, interviews of the complainant and witnesses were scheduled for Monday, November 12 and Tuesday, November 13.

The following individuals were selected for interviews, based on our initial knowledge of the complaint:

[REDACTED] St. Croix County (Complainant)

[REDACTED] St. Croix County (Witness)

[REDACTED] St. Croix County (Witness)

[REDACTED] St. Croix County (Witness)

[REDACTED] St. Croix County (Witness)

[REDACTED] 10th Judicial District, [REDACTED]
(Witness)

Don Harper, District Court Administrator, 10th Judicial District (Witness)

Judge Scott Needham, Circuit Court Judge, 10th Judicial District, [REDACTED]
(Witness)

Details of each interview are included in an attachment and a summary of those interviews follows.

Complainant Interviews:

The complainant, [REDACTED], in her interview, described the incident as follows:
Around November 2, 2018 at 10:30 AM in Judge Lundell's chambers, Judge Lundell told [REDACTED]. He asked [REDACTED] to come over to his house. He reported that earlier he had asked [REDACTED] to come over. [REDACTED] indicated in her statement that Judge Lundell indicated he had "dreams about you [REDACTED]." According to [REDACTED] he

indicated that while he was friends with [REDACTED], she felt he was more than friends with [REDACTED] and that [REDACTED] "trips his trigger." [REDACTED] indicated in her interview that at the time of his request, she had no response and "didn't know what to think about it." Around 12 pm later that day, he sat behind her desk and asked for her response to his proposal. [REDACTED] also indicated that he mentioned that he could make her a "rich widow." During this time she indicated she was alone in the courtroom but that people could see them from outside the courtroom. When [REDACTED] was asked by Tarra and I how she would like the situation resolved, [REDACTED] indicated that she would like Judge Lundell to resign or retire. She also indicated that she thought he had been "drinking again."

In addition, [REDACTED] provided Tarra and I a card that could be considered inappropriate, and was alleged to have been sent by Judge Lundell to [REDACTED] around Valentine's Day of 2018, and also provided text messages she and one of the witnesses, [REDACTED], had received on October 5.

Witness Interviews:

None of the witnesses who were interviewed had direct knowledge of the incident, and only reported what was told to them by [REDACTED]. Some had encountered [REDACTED] immediately after the alleged incident and observed she was visibly upset and crying. The witness statements were generally consistent in reporting what was reported to them by [REDACTED] or a third party. A few witnesses also indicated that Judge Lundell was generally perceived as periodically saying inappropriate statements, making inappropriate jokes, and had occasionally showed colleagues inappropriate documents. Some noted that his behavior was often characterized as "that's Judge Lundell," implying that his inappropriate behavior was well-known and somewhat tolerated by some staff. One witness referred to him as a "dirty old man." Details on the interviews are included in the attachment. Several witnesses expressed concerns about retaliatory action that could be taken against them by either Judge Lundell, other Judges or other officials in St. Croix County due to their roles in the interview process.

Conclusion

Statements from the complaint and witnesses provide sufficient evidence to warrant an investigation of the allegations brought forth by the complainant, and witnesses suggest a pattern of inappropriate and/or unprofessional behavior by Judge Lundell that could also be potentially construed as harassment. In addition, it should be noted that Judge Lundell did not attend the Respectful Workplace training that was made available to all of the Circuit Judges, and he has therefore not been formally advised of appropriate professional behavior.

My recommendations regarding this complaint are as follows:

- Chief Judge Boyle and Director of State Courts Judge Randy Koschnick should meet with Judge Lundell to discuss the allegations against him, inform him that a Judicial Commission complaint will be filed, and provide him the opportunity to respond and/or take actions relating to the allegations, prior to the Director of State Courts filing the complaint.
- Judge Lundell shall be instructed not to report to St. Croix County until a resolution to the allegations has occurred.

- Communications between Chief Judge Boyle or Director of State Courts Randy Koschnick and Pat Thompson, County Administrator of St. Croix County, and Tarra Davies-Fox, the county's Human Resources Director, should occur to inform them of the disposition and resolution of the complaint.
- Human Resources Director of St. Croix County, Tarra Davies-Fox, should inform the complainant, [REDACTED], of the outcome of the information-gathering and any temporary or permanent resolution to the complaints.
- The Director of State Courts office should mandate Respectful Workplace Training for all Circuit Court and Supreme Court Judges. When the training was offered this fall, attendance by Judges and Justices was encouraged, but not mandatory and a number of judges have not attended the training. By making the training mandatory, it will fulfill our commitment to maintain a respectful workplace free of harassment and bullying, and ensure that all state court employees understand their role in that process.